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10/769,156	01/30/2004	David A. Varley	125426-1090	7777

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EXAMINER

VARNER, STEVE M

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/769,156

Applicant(s)

VARLEY ET AL.

Examiner

Steve M Varner

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 45-68 is/are pending in the application.
- 4a) Of the above claim(s)    is/are withdrawn from consideration.
- 5) ☐ Claim(s)    is/are allowed.
- 6) ☒ Claim(s) 46,48,50-59 is/are rejected.
- 7) ☒ Claim(s) 47,49 and 60-68 is/are objected to.
- 8) ☐ Claim(s)    are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on    is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No.   .
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date   .
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date.   .
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:   .

### **DETAILED ACTION**

Claims 1-44 are cancelled.

Examiner acknowledges the terminal disclaimer of 11/16/04.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 59 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 59, "normal plane" in line 8 and line 11 is indefinite since it is unclear if "normal" means perpendicular or not deviating from a norm.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 45, 46, 48, 55, 56, 58, is rejected under 35 U.S.C. 102(b) as being anticipated by Kraeutler.

Regarding claim 45, Kraeutler shows a flexible curtain closure member (4) having a transverse bottom edge and opposed side edges; spaced apart guide tracks (1) for guiding said side edges of said closure member for movement between open and closed positions, at least one of said guide tracks comprising channel shaped member

(1) having a web (a) and opposed flanges (b), said flanges including reentrant distal ends (C) providing a reduced width slot between said flanges for receiving one of said side edges of said closure member; and opposed windlock (6) members supported on said closure member at said side edges thereof, respectively, for movement within said guide tracks for retaining said side edges of said closure member in said guide tracks, at least said windlock members on said one side edge being configured for engagement with said distal ends of said flanges while said windlock members on the other of said side edges are operable to exit said other guide track response to predetermined force acting on said closure member (Fig. 1, 2) (Abstract).

Regarding claim 46, Kraeutler shows said windlock members are disposed on opposite ends of respective elongated struts (5) secured to said closure member (4) (Fig. 2).

Regarding claim 48, Kraeutler shows curtain stiffening means (bottom 5) secured to said closure member (4) adjacent said bottom edge for stiffening said closure member against deflection in a direction out of the normal plane of said closure member in the door closed position of said closure member while allowing deflection of said closure member substantially vertically and within the normal plane of said closure member (Fig. 1, 2).

Regarding claim 55, Kraeutler shows windlock members (6) disposed along said one side edge include bosses having surfaces engageable with said distal ends (C) of said flanges (b) for retaining said windlock members in said one guide track (1) (Fig. 2).

Regarding claim 56, Kraeutler shows windlock members disposed along said other side edge include surfaces which are inclined with respect to a normal plane of said closure member in a door closed position and are engageable with said distal ends of said flanges of said other guide track (Fig. 2).

Regarding claim 58, Kraeutler shows said windlock members (6) are formed as separate parts attached to elongated struts (5) extending across said door from said one side edge to said other side edge (Fig. 1, 2).

Claim 59 is rejected under 35 U.S.C. 102(b) as being anticipated by Rosenoy.

Regarding claim 59, Rosenoy shows a flexible curtain (28) closure member having a transverse bottom edge and opposed side edges, spaced apart guide tracks (12, 14), and curtain stiffening means (30) secured to the closure member adjacent the bottom edge (Fig. 1, 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraeutler.

Regarding claim 47, Kraeutler shows separate parts (one at each end). Kraeutler does not show removably secured to the struts by mechanical fasteners. Mechanical fasteners are known in the art. It would have been obvious to one of

ordinary skill in the art at the time the present invention was made to have mechanical fasteners to secure to the struts.

Claim 57 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kraeutler in view of Hawley's.

Regarding claim 57, Kraeutler shows flexible material for windlock members (6) (Col. 3, Line 50-55). Kraeutler does not show self-lubricating plastic. Hawley's shows Nylon (Page 811, 812), which is self-lubricating (Spec, Page 17, Line 10). It would have been obvious to one of ordinary skill in the art the use Nylon as in Hawley's in the structure of Kraeutler since Nylon is a flexible material whose self-lubricating properties would allow the windlock to exit the slideways.

### ***Claim Objections***

Claims 49, 60-68 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miyagawa et al. shows a walk through type waterproof screen apparatus. Varley et al. shows a flexible curtain rollup door with combination stiffening struts and windlocks. Maas et al. shows Kraeutler '902 shows goods-handling door comprising a wind-resistant flexible curtain. Serbu shows magnetic closure. Kraeutler '918 shows goods-handling door comprising a wind-resistant flexible curtain. Krupke et al. shows a roll up door.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve M Varner whose telephone number is 703 308-1894. The examiner can normally be reached on M-F 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D Friedman can be reached on 703 308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SV



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